

Prior to enactment of section 170 of the Atomic Energy Act 1954, as amended, this authority was exercised in a number of Atomic Energy Commission contracts and this type of indemnification remains in some DOE contracts.

(b) It is the policy of the DOE, subsequent to the enactment of section 170, to restrict indemnity agreements with DOE contractors, with respect to protection against public liability for a nuclear incident, to the statutory indemnity provided under section 170. However, it is recognized that circumstances may exist under which a DOE contractor may be exposed to a risk of public liability for a nuclear occurrence which would not be covered by the statutory indemnity.

(c) While it is normally DOE policy to require its non-management and operating contractors to obtain insurance coverage against public liability for nonnuclear risks, there may be circumstances in which a contractual indemnity may be warranted to protect a DOE non-management and operating contractor against liability for uninsured nonnuclear risks.

(d) If circumstances as mentioned in paragraph (b) or (c) of this section do arise, it shall be the responsibility of the Heads of Contracting Activities to submit to the Head of the Agency or designee for review and decision, all pertinent information concerning the need for, or desirability of, providing a general authority indemnity to a DOE contractor.

(e) Where the indemnified risk is nonnuclear, the amount of general authority indemnity extended to a fixed-price contractor should normally have a maximum obligation equivalent to the amount of insurance that the contractor usually carries to cover such risks in its other commercial operations or, if the risk involved is dissimilar to those normally encountered by the contractor, the amount that it otherwise would have reasonably procured to insure this contract risk.

(f) In the event that a DOE contractor has been extended both a statutory indemnity and a general authority indemnity, the general authority indemnity will not apply to the extent that the statutory indemnity applies.

(g) The provisions of this subsection do not restrict or affect the policy of DOE to pay its cost-reimbursement type contractors for the allowable cost of losses and expenses incurred in the performance of the contract work, within the maximum amount of the contract obligation.

[49 FR 12039, Mar. 28, 1984, as amended at 56 FR 28102, June 19, 1991. Redesignated and amended at 56 FR 57828, Nov. 14, 1991; 59 FR 9108, Feb. 25, 1994; 61 FR 21977, May 13, 1996; 62 FR 34861, June 27, 1997]

PART 951—USE OF GOVERNMENT SOURCES BY CONTRACTORS

Subpart 951.1—Contractor Use of Government Supply Sources

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Subpart 951.70—Contractor Employee Travel Discounts

951.7002 Responsibilities.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

SOURCE: 49 FR 12042, Mar. 28, 1984, unless otherwise noted.

Subpart 951.1—Contractor Use of Government Supply Sources

951.101 Policy.

(a) It is DOE policy that contractors performing under cost-reimbursement contracts should meet their requirements from Government sources of supply when these sources are available to them, and if it is economically advantageous or otherwise in the best interest of the Government.

951.102 Authorization to use Government supply sources.

(a) The Head of the Contracting Activity may authorize contractors performing under cost-reimbursement contracts and subcontractors performing under cost-reimbursement subcontracts, where all higher tier contracts and subcontracts are cost-type, to use Government supply sources in accordance with the requirements and procedures in FAR Part 51, DOE PMR